

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DONALD G. SMITH, JR.,	:	
	:	
Plaintiff,	:	Case No. 1:22-cv-690
	:	
vs.	:	Judge McFarland
	:	
CITY OF HAMILTON, OHIO, et al.	:	Magistrate Judge Litkovitz
	:	
Defendants.	:	

ANSWER OF DEFENDANTS

Now come Defendants City of Hamilton, Ohio, and John Ebbing and for their Answer to Plaintiff's Complaint state as follows:

1. Defendants admit that John Ebbing is an officer with the City of Hamilton.
2. All other factual allegations are Plaintiff's Complaint are denied.
3. Any facts and/or allegations not expressly admitted herein are hereby denied.

FIRST DEFENSE

4. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

5. Plaintiff's Complaint fails to state a claim under *Monell*.

THIRD DEFENSE

6. Plaintiff has not been subject to a deprivation of liberty.

FOURTH DEFENSE

7. Plaintiff's claims are barred by political subdivision immunity under R.C. Chapter 2744, including but not limited to R.C. § 2744.02 and R.C. § 2744.03.

FIFTH DEFENSE

8. Plaintiff's damages, if any, were the result of Plaintiff's own misconduct.

SIXTH DEFENSE

9. Plaintiff's damages, if any, were the result of the action of third parties over whom Defendant had no control or authority.

SEVENTH DEFENSE

10. Plaintiff has failed to name necessary parties.

EIGHTH DEFENSE

11. Plaintiff has failed to mitigate his damages.

NINTH DEFENSE

12. Defendant Ebbing is entitled to qualified and/or absolute immunity.

TENTH DEFENSE

13. Defendants incorporate and hereby assert all Fed. R. Civ. P. 12 defenses as if fully restated herein.

14. Defendants reserve the right to assert such additional defenses a basis for which is revealed during the litigation of this matter.

WHEREFORE, Defendants City of Hamilton and John Ebbing respectfully request that this Court dismiss Plaintiff's Complaint in its entirety, with attorney fees and costs taxed to Plaintiff, along with such other relief this Court determines is appropriate.

Respectfully submitted,

/s/ Aaron M. Glasgow

Aaron M. Glasgow (0075466)

aglasgow@isaacwiles.com

Gareth Whaley (0102156)

gwhaley@isaacwiles.com

ISAAC WILES & BURKHOLDER, LLC

2 Miranova Place, Suite 700

Columbus, OH 43215

T: (614) 221-2121 / F: (614) 365-9516

*Attorneys for Defendants City of Hamilton
and John Ebbing*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was filed with the Court electronically on December 29, 2022. A copy of the foregoing was served regular U.S. Mail, postage prepaid, on the same day on the following:

Donald Gene Smith, Jr.
428 N. 9th Street
Hamilton, Ohio 45011
Plaintiff Pro Se

/s/ Aaron M. Glasgow

Aaron M. Glasgow (0075466)